

# Call Recording and Regulatory Compliance

An OAISYS<sup>®</sup> White Paper





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## Increased Regulations in Response to Economic Crisis

As companies face the challenges presented by the current global economic crisis, it is expected, if not demanded, that governments will respond to the collapse of the financial credit market that fueled the meltdown with increased regulations. These new regulations will almost certainly impact a wide range of business operations with even tighter scrutiny than ever before.

Even today, virtually every industry in the United States is subject to some type of state or federal regulation. Some regulations oversee practices, such as telemarketing, that are used by businesses in multiple industries, and some are industry-specific, such as the Health Insurance Portability and Accountability Act (HIPAA).

In this white paper, we will examine several existing regulations and highlight how call recording and voice documentation can help businesses affected by these regulatory issues to achieve compliance. We will also explore general benefits of the technology that will prove valuable in ensuring compliance with new regulatory requirements businesses may face.

## The Sarbanes-Oxley Act

Ostensibly passed as an accounting reform bill to prevent a recurrence of the type of fraud that led to the collapse of several major businesses, the Sarbanes-Oxley Act created extensive guidelines for the documentation of business processes and transactions, mandating that businesses create and maintain electronic records as part of their regular business processes.

With written documents, such as email, this process was relatively straightforward and easy to audit. Verbal communications, however, have proven much more challenging. In many cases, the best that could be hoped for is that each party took written notes about their telephone conversations, converted them to an electronic format and that those notes supported what actually transpired during the call.

With OAISYS call recording solutions, including Tracer, our call center management software, and Talkument™, our personal voice documentation and collaboration software, important calls are captured in their entirety and stored in an easily organized and searchable hierarchical folder structure, similar to email organization in Microsoft Outlook. Maintaining an electronic record of telephone calls in the same manner as emails helps to ensure compliance with Sarbanes-Oxley and simplifies the discovery and auditing processes, reducing the potential for abuse or mistakes.



## The Payment Card Industry Data Security Standard

The Payment Card Industry (PCI) Data Security Standard (DSS) is a self-imposed set of regulations created by the PCI Security Standards Council to reduce the possibility of fraud and identity theft. Among its mandates are retaining consumer identification data for a defined useful life, ensuring only authorized access to payer information and putting in place a data encryption system to prevent unauthorized disclosure or theft of confidential information.

Since account, password and other identity sensitive information is often contained in telephone calls to banks and other financial institutions, facilities should ensure their telephone conversations comply with the PCI DSS.

OAISYS solutions can easily be configured to purge recording data after a defined time period. Access to call recordings is based on a hierarchical permissions system, and calls that need to be shared with others in an organization are done so via a secure, encrypted data stream to ensure the actual file never leaves the server.

To find out more about call recording and PCI standards compliance, please download our data sheet at [www.oaisys.com/downloads/Tracer\\_PCI.pdf](http://www.oaisys.com/downloads/Tracer_PCI.pdf).

## The Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act (FDCPA) places strict guidelines under which debt collections agencies can conduct business, specifically what methods and behaviors they can employ in attempting to collect a debt. While the penalties and awarded damages are generally small, defending against lawsuits brought forth by consumers under the FDCPA can prove time consuming and costly.

The Act prohibits conduct by debt collectors that could be considered abusive or deceptive. This includes restrictions on when consumers can be contacted by telephone, misrepresentation of the debt or the debt collector's legal authority, abusive or threatening language and other conditions.

Maintaining a record of every call, which can be easily searched for and located when needed, serves as powerful protection against FDCPA claims. Without a valid recording of the call, such allegations may immediately devolve into, "he said/she said," disputes, placing tremendous burden on debt collectors to clear themselves of wrongdoing and impeding their ability to collect valid debts.

Tracer and Talkument also offer another layer of credibility and verification for debt collectors. Call recordings are embedded with a distinct digital watermark that indicates whether they have been tampered with or altered. Demonstrating that a recording exists, and also that it is an authentic and verifiable account of the actual conversation exactly as it occurred, can serve as compelling and inarguable evidence that a debt collection agency is in compliance with the law.



## The Gramm-Leach-Bliley Financial Services Modernization Act

The Gramm-Leach-Bliley Act (GLBA), also known as the Financial Modernization Act of 1999, is a federal law enacted in the United States to control the ways that financial institutions deal with the private information of individuals. The Act consists of three sections: The Financial Privacy Rule, which regulates the collection and disclosure of private financial information; the Safeguards Rule, which stipulates that financial institutions must implement security programs to protect such information; and the Pretexting provisions, which prohibit the practice of pretexting (accessing private information using false pretenses). The Act also requires financial institutions to give customers written privacy notices that explain their information-sharing practices.

Under the Safeguards Rule, financial institutions must create and follow a written information security plan that details how they will protect the non-public information, such as account and identification numbers, of their current and former customers.

The plan must include the following:

- Identifying one or more employees to manage the program
- Developing processes for how each department handles non-public information
- Developing and testing a program to ensure information security
- Making ongoing changes and updates as needed regarding how information is obtained and stored.

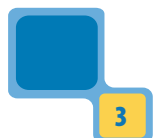
OAISYS call recording and voice documentation solutions make it easy to incorporate voice-based communications as part of an organization's GLBA compliance plan.

In addition, companies that factor call recording into their electronic records plan have an added layer of security, knowing that every aspect of their business is compliant, rather than just their written documents and transactions.

To find out more about voice documentation and the GLBA, please download our white paper at [www.oaisys.com/downloads/talkument\\_glba.pdf](http://www.oaisys.com/downloads/talkument_glba.pdf).

## The Do-Not-Call Implementation Act and the Telemarketing Sales Rule

In an effort to reduce the volume of telemarketing calls consumers receive, Congress passed the Do-Not-Call Implementation Act. Under the Act, and the changes made by the Federal Trade Commission to the Telemarketing Sales Rule (TSR) to enable its implementation, U.S. consumers were permitted to place their telephone numbers on the National Do-Not-Call Registry.





Companies that engage in marketing by telephone, with certain exceptions, are required to verify their call lists against this database of callers who do not wish to be contacted. They are also required to initiate conversation within two seconds after the person being called answers the phone.

Additionally, telemarketers who make sales or take orders are required to obtain a customer's direct and verifiable authorization in which they agree to be billed and must also identify the method of payment, including a statement that the customer understands he or she will be billed, and the specific amount and date on which the charge will be submitted.

Fines for failing to comply with the TSR can be as high as \$11,000 for each violation committed.

The benefits of call recording as a defense against alleged violations are tremendous. If a company is contacted by the FTC about an alleged violation, they would simply conduct a search on a wide variety of specific recording file attributes to locate the call in question. Search criteria may include attributes such as the phone number, date, time, etc. Once located, the company can provide the investigator with a secure link to the call, accessible by email. Upon review, the investigator can determine whether the company was in compliance, saving the costs of a lengthy investigation, eliminating "he said/she said" disputes and protecting the organization from false allegations.

To find out more about voice documentation and the TSR, please download our white paper at [www.oaisys.com/downloads/Voice\\_Documentation\\_and\\_TSR.pdf](http://www.oaisys.com/downloads/Voice_Documentation_and_TSR.pdf).

## **Health Insurance Portability and Accountability Act**

HIPAA aims to reduce fraud and abuse while simultaneously simplifying administration of patient records.

The Act's Privacy Rule establishes regulations for the use and disclosure of protected health information (PHI) by the care provider.

The Security Rule, also known as the "Final Rule on Security Standards," complements the Privacy Rule by establishing administrative, physical and technical safeguards.

Administrative safeguards generally require organizations that must comply with HIPAA to establish a set of procedures to protect patient privacy, identify employees or types of employees who can access electronic PHI, train employees in the process and ensure that outside vendors who may see patient information have their own processes in place. There must also be plans in place to address information auditing and security breaches should they occur.



The Security Rule applies explicitly to electronic medical records (EMRs). An EMR is any medical record stored in a digital format. These can include treatment records, notes on patient care, images, billing statements and insurance provider notifications, among others.

All OAISYS recording solutions come equipped with our patent-pending Portable Voice Document (PVD) technology, which ensures conversations between patients, healthcare providers, insurers and others are preserved with 100 percent accuracy and complete collaborative ability among authorized users.

Voice documents themselves never leave the central server, and links to access voice documents are securely transmitted between authorized parties only. These voice documents also satisfy HIPAA's training requirements, in that actual calls can be used to train staff on a facility's processes.

The Security Rule requirements place stringent controls on how EMRs can be stored and shared. OAISYS voice documentation solutions satisfy these regulatory concerns while improving patient care and bridging potential gaps in recordkeeping.

Additionally, OAISYS solutions can be added to any healthcare organization regardless of where they may be in their transition to an EMR system, as they function separately and in parallel to whatever text- and image-based solution an organization may ultimately employ.

To find out more about voice documentation and HIPAA compliance, please download our white paper at [www.oaisys.com/downloads/Voice\\_documentation\\_HIPAA.pdf](http://www.oaisys.com/downloads/Voice_documentation_HIPAA.pdf).

## OAISYS Solutions for General Regulatory Compliance

Despite their focus on specific industries, the regulations we have detailed tend to have many universal aspects concerning how they are to be applied and what organizations must do to achieve compliance. It can be reasoned that regulations for other industries, and prospective regulations yet to be proposed or implemented, will likely have similar requirements related to ensuring compliance.

The following section outlines some of these common regulatory concerns and how our Tracer and Talkument solutions can prove invaluable in helping to address them.

**Security of Information:** Calls captured by Tracer and/or Talkument reside on a secure central server connected to an organization's telephone system. Access to administrative functions and to individual voice documents is permissions based, and recordings are inaccessible to outsiders unless they are granted access permission by an authorized user. These permissions can be limited to prevent further sharing and may also be set to expire after a defined time period.



Access to voice documents is achieved through a secure link to the server. Files are not shared directly and never leave the actual server. Files are encrypted, and also utilize a feature known as digital watermarking, whereby the integrity of the file can be verified to demonstrate the content has not been altered.

**Electronic Documentation:** Many, if not most, governmental regulations require organizations to adopt a method of managing their electronic records, including emails, transaction reports, accounting information.

OAISYS recording solutions allow companies to manage their telephone-based communications in the same manner as their other electronic records. While written notes may, by necessity, omit significant information, voice documentation technology can capture the entire communication and assures every aspect of an organization's phone-based interactions comply with electronic records guidelines.

Just as with email and other electronic written documents, authorized users can share voice documents on an as needed basis.

**Auditing/Electronic Discovery:** Many regulations subject organizations to auditing, investigation or discovery to ensure compliance or to resolve allegations of violation. OAISYS recording solutions and voice documentation functionality enables organizations to quickly locate the calls in question, using a wide variety of available search criteria, whenever there is a need to produce documentation.

Tracer Reporter, a powerful reporting package included with the Tracer software, can also be used to easily generate reports on call volumes, trends in usage and other information that could prove valuable should the need arise.

**Records Retention and Deletion:** Regulatory guidelines often contain language detailing how electronic records are to be stored, how long they can be retained or, conversely, how often they must be purged.

The administrative capabilities of OAISYS recording and voice documentation solutions allows administrators to schedule events such as record purging and migration to archival from simple menus. Archived calls are just as easy to search and locate as calls that are resident on the server, making retrieval a simple matter should these older calls become subject to review.



## Conclusion

Organizations in today's business environment face many challenges, and regardless of the specific industry an organization is part of, the probability of being affected by new or expanded regulations, whether directly or indirectly, is likely to increase.

OAISYS call recording and voice documentation solutions offer protection from claims of regulatory noncompliance, and enable organizations to improve business processes, enhance customer service levels and drive profitability both now and in the future.

To learn more about how call recording can help businesses in any industry, please download our data sheet at [www.oaisys.com/downloads/why\\_businesses\\_need\\_call\\_recording.pdf](http://www.oaisys.com/downloads/why_businesses_need_call_recording.pdf) and our white paper at [www.oaisys.com/downloads/call\\_logging\\_for\\_business\\_optimization.pdf](http://www.oaisys.com/downloads/call_logging_for_business_optimization.pdf).

To find out more about Tracer, Talkument and OAISYS, please contact us at **888.496.9040** or visit us on the web at [www.oaisys.com](http://www.oaisys.com).

To find a reseller near you, go to [www.oaisys.com](http://www.oaisys.com), click "Support," then "Reseller Locator."